AO 91 (Rev. 01/09) Criminal Complaint

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
APR 19 2011
MATTHEW J. DYKMAN
CLERK

# UNITED STATES DISTRICT COURT
for the
District of New Mexico

United States of America
v.
Dennis J. Lovato
Defendant

Case No. 11mj1046

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 04/15/2011 in the county of Sandoval in the ______ District of New Mexico, the defendant violated 18 U. S. C. § 1111, 1153, an offense described as follows:

did murder Joseph Melvin Lucero, a Native American, on the Santo Domingo Pueblo. Lovato is also Native American.

This criminal complaint is based on these facts:

See attached affidavit.

☑ Continued on the attached sheet.

[signature]
Complainant's signature

Russell S. Romero, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 04/19/2011

Robert H. Scott
Judge's signature

City and state: Albuquerque, New Mexico

ROBERT H. SCOTT
U.S. Magistrate Judge
Printed name and title

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)
)
VS.)
)
Dennis J. Lovato)
Year of Birth: 1984)
SSAN: xxx-xx-1299)

AFFIDAVIT

I, the undersigned, being duly sworn, hereby depose and state as follows:

I, Russell S. Romero, am a Special Agent of the Federal Bureau of Investigation (FBI), and have been so employed for over four years. I am currently assigned to the Santa Fe Resident Agency of the Albuquerque Field Office, to investigate violations of Federal Laws, including crimes committed in Indian Country such as homicide, sexual assault, and assault. I was previously assigned to the Honolulu and San Francisco divisions, respectively, where I investigated gang and drug cases, as well as special jurisdiction cases involving crimes aboard aircraft to include sexual assault and assault. The information set forth in this affidavit has been derived from my own investigation or communicated to me by other sworn law enforcement officers.

On Friday, April 15, 2011 at approximately 11:45 p.m., your affiant received a call from Bureau of Indian Affairs (BIA) Special Agent Jeff Sandoval reporting that a possible homicide had occurred on Santo Domingo Pueblo, Santo Domingo, New Mexico.

Your affiant, as well as FBI Special Agent David A. Kice, responded to the pueblo with BIA Special Agent Sandoval to initiate an investigation. Interviews of first responders revealed that on April 15, 2011, Santo Domingo Pueblo Tribal Officials Samson Bailan and Nathanial Pacheco were patrolling Santo Domingo Pueblo, when they noticed a blue Dodge Durango, New Mexico License 904PLC, driving on Cochiti Lane. The driver appeared intoxicated and was advised to stop; however, the driver of the vehicle did not comply and fled. BIA police were called at approximately 9:45pm to stop the vehicle.

Soon after, BIA Police Officer Earl Chicharello caught up to the vehicle at the Mateo Overpass in Santo Domingo Pueblo, and arrested the driver, identified as Dennis J. Lovato, Year of Birth (YOB) 1984, SSAN XXX-XX-1299, a Tribal Member of Santo Domingo Pueblo, on suspicion of Driving Under the Influence (DUI). Upon arrest, Lovato advised Officer Chicharello that he had just been involved in a fight with "Youngblood," later identified as Joseph Melvin Lucero, YOB 1949, SSAN XXX-XX-6845, also a Tribal Member of Santo Domingo Pueblo. Lovato stated that the fight occurred at Lucero's residence, located on Santo Domingo Pueblo. The arresting officer noted that Lovato's shirt and hands were covered in blood, and that Lovato had a cut on a finger on his right hand. Lovato told Officer Chicharello that he was, "fighting for his life."

There were two other occupants in the vehicle, including the registered owner, Eddie N. Garcia (Eddie), YOB 1959 and Nelson Lee Garcia (Nelson), YOB 1963. Both Eddie and Nelson were also arrested. All three occupants were intoxicated and were transported to the Santo Domingo Pueblo Tribal Office.

Lovato was transported to Indian Health Services (IHS) in Santa Fe, New Mexico to tend to his injured right hand. Prior to being taken to IHS, Lovato was overheard making physical threats to the BIA officers. He was also overheard saying, "I was defending myself; I got in a knife fight with 'Youngblood," and "I got scared; I got paranoid; I just left." He was later booked at the Sandoval County Detention Center for the DUI charges.

Also on Friday, April 15, 2011, at approximately 9:45pm, Lucero's neighbor's son, Ray Rosetta (Ray), noticed someone lying outside of Lucero's residence, between the residence and the road. Ray noted that Lucero was known to have parties and he believed that whoever it was had just passed out. Later, when Ray's father, Martin Rosetta, arrived home, he notified Santo Domingo Pueblo Tribal Officials of the body laying outside of Lucero's residence.

BIA police, along with Tribal Officials and Santo Domingo Emergency Medical Services (EMS) arrived at Lucero's residence and found Lucero deceased with his face swollen and bloody.

On Saturday, April 16, 2011, your affiant, FBI Special Agent Kice, and BIA Special Agent Sandoval interviewed Eddie N. Garcia at the Santo Domingo Tribal Office. Prior to beginning the interview, Eddie was advised of his Miranda rights and acknowledged that he understood them. Eddie stated that he was so intoxicated that he did not recall going to Lucero's residence, nor did he recall a fight between Lovato and Lucero.

On Saturday, April 16, 2011, your affiant, FBI Special Agent Kice, and BIA Special Agent Sandoval interviewed Nelson Lee Garcia at the Santo Domingo Tribal Office. Prior to beginning the interview, Nelson was advised of his Miranda rights and acknowledged that he understood them. Nelson stated that Lovato and Eddie picked him up at the New Mexico Rail Runner that evening. When they returned to the pueblo, they drove to Lucero's residence. Nelson stated that Lovato and Lucero had been in an argument a long time ago. Nelson overheard Lovato say that that he (Lovato) was "gonna get him (Lucero)." Lovato then exited the vehicle and starting fighting with Lucero. Nelson stated that he saw Lovato punching and kicking Lucero and stated that neither party had any weapons, to include a knife. During this time, Nelson told Eddie, "What's he doing?" and "Come on, help me out, let's tell Dennis not to fight 'Youngblood.'" Nelson and Eddie then stepped out of the vehicle, and pulled Lovato back in while Nelson told him (Lovato), "Don't do that to him," and "let's get out of here, don't hit him no more." Lovato then exited the truck a second time to continue beating Lucero. Lucero was already down on the ground when Lovato was kicking him. When Lovato returned to the vehicle, he stated, "I think I hit him hard; I think I killed him." They then "took off real fast," and Nelson was scared that they would flip the vehicle over.

On Saturday, April 16, 2011, your affiant and FBI SA Kice interviewed Dennis J. Lovato at the Sandoval County Detention Center. Prior to beginning the interview, Lovato was advised of his Miranda rights and acknowledged that he understood them. Lovato stated that he had stopped at Lucero's residence because Nelson had wanted to stop there. Lovato and Eddie stayed in the vehicle to wait for Nelson. Lovato exited the vehicle when he saw Lucero shoving Nelson. Lovato stated that he hit Lucero twice and knocked him down, where he then kicked him. Lovato then got on top of Lucero and began punching Lucero through Lucero's fists as he was trying to cover his face. Lovato stated that he hit Lucero several times while he was on the ground, and that he stood up and kicked Lucero in the head twice more after he finished punching him. He then got back into the vehicle and left the scene with Eddie and Nelson.

Lovato initially stated that Lucero had a knife when Lucero was fighting with Nelson; however, he did not know what happened to it when he and Lucero were fighting.

There was no knife found at the crime scene; however, a folding knife was found upon search of the vehicle which was conducted on April 18, 2011.

New Mexico Department of Motor Vehicles (DMV) records list Lovato's height and weight as 6'3", 265lb. New Mexico DMV records list Lucero's height and weight as 5'6", 180lb.

On Saturday, April 16th, 2011, FBI Special Agent Mark Buie attended an autopsy performed on Lucero's body at the Office of the Medical Investigator (OMI) in Albuquerque, New Mexico. Preliminary autopsy results indicate that the cause/manner of Lucero's death was Multiple Blunt Force Trauma/Homicide.

Based on the information set forth in this affidavit, your affiant submits that there is probable cause to believe that Dennis J. Lovato, an Indian, did unlawfully, maliciously, and with malice aforethought, kill Joseph Melvin Lucero, also an Indian, on April 15, 2011 on Santo Domingo Pueblo, Santo Domingo, New Mexico.

Your affiant further submits that this murder was committed in violation of Title 18, United States Code, Sections 1111 and 1153.

I swear that this information is true and correct to the best of my knowledge and belief.

Respectfully submitted,

Russell S. Romero
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 19th day of April, 2011.

Robert H. Scott

United States Magistrate Judge